

International Brotherhood of Electrical Workers, Local Union No. 292, AFL-CIO and Frantz Klodt & Son, Inc. and Honeywell, Inc. and International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 1145. Case 18-CD-268

November 25, 1981

DECISION AND DETERMINATION OF DISPUTE

BY CHAIRMAN VAN DE WATER AND
MEMBERS FANNING AND ZIMMERMAN

This is a proceeding under Section 10(k) of the National Labor Relations Act, as amended, following a charge filed by Frantz Klodt & Son, Inc., alleging that International Brotherhood of Electrical Workers, Local Union No. 292, AFL-CIO, herein called Local 292, had violated Section 8(b)(4)(D) of the Act by engaging in certain proscribed activity with an object of forcing or requiring Honeywell, Inc., herein called the Employer, to assign certain work to its members rather than to employees represented by International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 1145, herein called Local 1145.

Pursuant to notice, a hearing was held before Hearing Officer David M. Biggar on September 10, 1981. All parties except Local 292 appeared and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to adduce evidence bearing on the issues.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearings and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this proceeding, the Board makes the following findings:

I. THE BUSINESS OF THE EMPLOYER

The parties stipulated, and we find, that the Employer, a Delaware corporation with its principal place of business in Minneapolis, Minnesota, is engaged in the manufacture of temperature control systems, computers, and military defense systems. During the calendar year ending December 31, 1980, the Employer purchased and received at its facilities within the State of Minnesota products, goods, and materials from outside the State having a value in excess of \$50,000. The parties also stipulated, and we find, that the Employer is engaged in commerce within the meaning of Section 2(6) and

(7) of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

II. THE LABOR ORGANIZATIONS INVOLVED

The parties stipulated, and we find, that Local 292 and Local 1145 are labor organizations within the meaning of Section 2(5) of the Act.

III. THE DISPUTE

A. Background and Facts of the Dispute

Honeywell has leased office space from Frantz Klodt & Son, Inc., in the Park Place office complex in St. Louis Park, Minnesota, and has performed construction-related improvements in its office space. It has assigned the installation of wire molding and related electrical work on these premises to its employees represented by Local 1145.

The record shows that in the last week of July and on August 3, 1981, John Wagner, business representative for Local 292, contacted James Becker, the maintenance supervisor for Honeywell, at the Park Place project. Wagner claimed that the work in dispute belonged to members of Local 292 rather than to Honeywell's employees represented by Local 1145, and indicated to Becker that Local 292 would banner the project. Becker advised Wagner that the work in dispute on such projects had normally been performed in the past by employees of Honeywell represented by Local 1145, and that this assignment would not be changed. Wagner then contacted Jon Blackstone, Honeywell's manager of labor relations for its Minneapolis operations, to claim that this work belonged to members of Local 292. Blackstone suggested that perhaps there was some compromise that could be reached that would allow work on the project to continue. Wagner indicated that he did not want to be involved in a dispute with Honeywell and would listen to alternative proposals. This conversation occurred on or about August 5, 1981. However, on August 6, 1981, before any alternative proposals were discussed, Local 292 placed a banner on the project. It is unclear as to the language on the picket sign but the testimony indicated that the effect of the picketing was that employees represented by Local 292 and employed by Minnetonka Electric Company, an electrical subcontractor of Frantz Klodt & Son, Inc., at Park Place, walked off the job. They did not return until the electricians represented by Local 1145 were removed from the project by Honeywell.

B. The Work in Dispute

The work in dispute involves the installation of wire molding, nonpermanent wiring, and related

electrical work on modern wall partitioning located on floors leased to Honeywell, Inc., at the Park Place office project located at 5775 Wayzata Boulevard, St. Louis Park, Minnesota.

C. *The Contentions of the Parties*

The Employer and Frantz Klodt & Son, Inc., contend that the work should be assigned to Honeywell's employees represented by Local 1145, relying on Honeywell's collective-bargaining agreement with Local 1145, economy and efficiency of operations, and employer assignment and preference.

Local 1145 asserts that the Employer's assignment of the work should be upheld as it falls within the terms of its collective-bargaining agreement with Honeywell.

Local 292 did not appear at the hearing. However, it informed the Board's Region 18 that its picketing of the Park Place project was to advertise to the public that electrical work was being performed on the project by employees who are not paid according to the standards and working conditions established in the area by Local 292.

D. *Applicability of the Statute*

Before the Board may proceed with a determination of the dispute pursuant to Section 10(k) of the Act, it must be satisfied that there is reasonable cause to believe that Section 8(b)(4)(D) has been violated and that the parties have not agreed upon a method for the voluntary adjustment of the dispute.

The parties stipulated that there is no agreed-upon method of resolving the work assignment in dispute at the Park Place project which would bind all of the parties involved.

The record shows that in the last week of July and the first week of August 1981 Local 292 demanded that Honeywell assign the disputed work to its members rather than to Honeywell's own employees represented by Local 1145, and threatened to picket the Park Place project if Honeywell did not accede to its demands. The record further shows that on August 6 Local 292 did in fact banner the building and picket the project causing a walkout by a subcontractor's employees represented by Local 292.

On the basis of the entire record, we conclude that there is reasonable cause to believe that a violation of Section 8(b)(4)(D) has occurred and that there exists no agreed-upon method for the voluntary adjustment of the dispute within the meaning of Section 10(k) of the Act. Accordingly, we find that this dispute is properly before the Board for determination.

E. *Merits of the Dispute*

Section 10(k) of the Act requires the Board to make an affirmative award of disputed work after giving due consideration to various factors.¹ The Board has held that its determination in a jurisdictional dispute is an act of judgment based on commonsense and experience reached by balancing those factors involved in a particular case.²

The following factors are relevant in making the determination of the dispute before us:

1. *Collective-bargaining agreements*

Local 1145's collective-bargaining agreement with Honeywell covers the electricians who are performing the work in dispute as part of a production and maintenance unit. However, it does not specifically apply to the assignment of the work in dispute. Local 292 does not have a collective-bargaining agreement or a relationship with Honeywell. We find that this factor favors neither Union.

2. *Company practice*

It has been the Employer's practice for over 20 years to assign work similar to that in dispute to its own employees represented by Local 1145. This past practice favors an award of the work to Honeywell's employees represented by Local 1145.

3. *Economy and efficiency of operations*

The Honeywell electricians perform work for the Employer other than that which is in dispute. As a result, the Employer is able to perform both the disputed work and other tasks with one work force. Therefore, economy and efficiency of operations favor an award to Honeywell's employees represented by Local 1145.

4. *Employer preference and assignment*

The Employer has expressed its preference that the disputed work be performed by its employees presently doing the work. We find that the Employer's assignment and preference favor an award of the disputed work to its employees represented by Local 1145.

Conclusions

Upon the record as a whole, and after full consideration of all relevant factors involved, we conclude that Honeywell's employees who are repre-

¹ *N.L.R.B. v. Radio & Television Broadcast Engineers Union, Local 1212, International Brotherhood of Electrical Workers, AFL-CIO* [Columbia Broadcasting System], 364 U.S. 573 (1961).

² *International Association of Machinists, Lodge No. 1743, AFL-CIO (J. A. Jones Construction Company)*, 135 NLRB 1402 (1962).

sented by International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 1145, are entitled to perform the work in dispute. We reach this conclusion relying on the factors of company practice, economy and efficiency of operations, and employer preference and assignment.

In making this determination, we are awarding the work in question to Honeywell's employees who are represented by Local 1145, but not to that Union or its members. The present determination is limited to the particular controversy which gave rise to this proceeding.

DETERMINATION OF DISPUTE

Pursuant to Section 10(k) of the National Labor Relations Act, as amended, and upon the basis of the foregoing findings and the entire record in this proceeding, the National Labor Relations Board makes the following Determination of Dispute:

1. Employees of Honeywell, Inc., who are represented by International Brotherhood of Teamsters,

Chauffeurs, Warehousemen and Helpers of America, Local 1145, are entitled to perform the installation of wire molding, nonpermanent wiring, and related electrical work at the premises leased by Honeywell in the Park Place office project located at 5775 Wayzata Boulevard, St. Louis Park, Minnesota.

2. International Brotherhood of Electrical Workers, Local Union No. 292, AFL-CIO, is not entitled by means proscribed by Section 8(b)(4)(D) of the Act to force or require Honeywell, Inc., to assign the disputed work to employees represented by that labor organization.

3. Within 10 days from the date of this Decision and Determination of Dispute, International Brotherhood of Electrical Workers, Local Union No. 292, AFL-CIO, shall notify the Regional Director for Region 18, in writing, whether or not it will refrain from forcing or requiring the Employer, by means proscribed by Section 8(b)(4)(D) of the Act, to assign the disputed work in a manner inconsistent with the above determination.